

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

In Re: Case No. 1:10 MD 2196

Polyurethane Foam Antitrust Litigation O R D E R

This document related to: ALL CASES JUDGE JACK ZOUHARY

Pending before this Court is Defendant AUT's Motion to Dismiss (Docs. 469 & 502) with Opposition from Plaintiffs (Docs. 486 & 488). This Court previously ruled on similar Motions to Dismiss by other Defendants (Docs. 191, 200 & 243). For reasons stated in these earlier Memorandum Opinions, Defendant AUT's Motion is denied.

This Court acknowledges that AUT is in a somewhat unique position in that its liability occurs during the limited time period after which it acquired L&P which sold its polyurethane foam business to AUT. However, as noted by Plaintiffs, a number of employees immediately transferred to AUT and continued working, allegedly much the same way they did prior to the acquisition. At this juncture in the case, this Court cannot say that Plaintiffs have failed under the *Twigbal* standard to state a sufficient claim. Of course, it remains to be seen whether these employees had, and continued to have, a role in the alleged conspiracy. Perhaps after some limited and targeted discovery, Defendant AUT might be in a better position to advance some of the arguments it makes now at this early pleading stage.

IT IS SO ORDERED.

s/ Jack Zouhary
JACK ZOUHARY
U. S. DISTRICT JUDGE

March 27, 2013